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10/722,580	11/26/2003	Mitchell Clark Voges	67175523.001102	5675
23562 7590 05/01/2008 BAKER & MCKENZIE LLP PATENT DEPARTMENT 2001 ROSS AVENUE SUITE 2300 DALLAS, TX 75201				
EXAMINER BLAU, STEPHEN LUTHER				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/722,580

**Applicant(s)**

VOGES ET AL.

**Examiner**

Stephen L. Blau

**Art Unit**

3711

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29, 40-69 and 71-78 is/are pending in the application.
- 4a) Of the above claim(s) 40-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29, 67-69 and 71-78 is/are rejected.
- 7) ☒ Claim(s) 71 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. Figures 15-18 are approved and the objections of the drawings under 37 CFR 1.83(a) are removed.

### ***Specification***

2. The argument that the specification does disclose how one skilled in the art is to evaluate and correct the swing technique of a golfer is agreed with. Paragraph [038] clearly teaches what a proper load time should be as well as paragraphs [039] to [043] teaches what a proper load pattern is. One skilled in the art would be able to correct a swing technique of a golfer for a proper load time and load pattern. As such the objection of the specification under rule 1.71 of 37 C.F.R. for not disclosing how to evaluate and correct a swing technique of a golfer is removed.
3. With respect to optimizing equipment, the specification stands objected to under rule 1.71 of 37 C.F.R. for not being written in an exact and precise way as to enable one skilled in the art to use the same. The specification does not disclose how one skilled in the art is to specify golf equipment for optimizing equipment used for ability [028], loft [031], load time [045], load pattern [039] to [043], shaft length, shaft materials, shaft

torque, shaft weight, different grips, different grip weights [060], tip size [069], head center of gravity, ball, and head type [056].

### ***Claim Objections***

4. Claim 71 is objected to because of the following informalities: It depends on a canceled claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The argument that the specification does disclose how one skilled in the art is to evaluate and correct the swing technique of a golfer is agreed with. Paragraph [038] clearly teaches what a proper load time should be as well as paragraphs [039] to [043] teaches what a proper load pattern is. One skilled in the art would be able to determine and correct a swing technique of a golfer for a proper load time and load pattern. As such the rejections to claims 1-29 under 35 U.S.C. 112, first paragraph for the disclosure not teaching how one skilled in the art is to determine if the swing technique is to be modified is removed.

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-39, 67-69, and 71-78 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. With respect to claims 1-29 it is uncertain how to modify the golf club characteristics based on the launch data to optimize a launch angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate. There are no examples showing how this is done. The only example of a club characteristic changing is the lie based on the impact location [063] and the shaft flex based on peak load or deflection [069]. With respect to claim 2, it is uncertain how a golfer's ability is used to provide swing instruction to a golfer. With respect to claims 10-11, it is uncertain how to select a new shaft length based on collected launch data. With respect to claims 12-13, it is uncertain how to select a new shaft weight based on collected launch data. With respect to claims 14-15, it is uncertain how to select a new shaft material based on collected launch data. With respect to claims 16-17, it is uncertain how to select a new shaft tip size based on collected launch data. With respect to claims 18-19, it is uncertain how to select a new shaft torque based on collected launch data. With respect to claims 20-21, it is uncertain how to select a new grip based on collected launch data. With respect to claims 22-23, it is uncertain how to select a grip weight based on collected launch data. With respect to claims 24-25, it is uncertain how to select a new head center of gravity based on collected launch data. With respect to claims 26-27, it is uncertain how to

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select a new ball spin characteristic based on collected launch data. With respect to claims 67-69 and 73-77 it is uncertain how to select a head based on head parameters. The only parameter that the Examiner could see in the specification which is enabled to be evaluated and changed is the lie [063]. It is uncertain how to select a head based on a plurality of parameters since none of the other parameters and how to change them are discussed. The same is true with the shaft. The only parameter that the Examiner could see in the specification which is enabled to be evaluated and changed is the stiffness [069]. It is uncertain how to select a shaft based on a plurality of parameters since none of the other parameters and how to change them are discussed. With respect to claims 67-78 it is uncertain how to select a new head or shaft based on based on monitoring the spin, velocity and launch angle imparted to a bally in order to optimize a launch angle velocity and spin rate to each other by determining an appropriate velocity based on the launch angle or spin rate. There are no examples showing how this is done. See comments above. With respect to claim 74, it is uncertain how to select a head based on head parameters of loft, center of gravity and size. With respect to claim 75, it is uncertain how to select a shaft based on shaft length, torque and weight. With respect to claims 71-72 it is uncertain how determine the most longest and accurate flight based on spin, velocity and launch angle. How are these manipulated in order to determine the best combination?

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is indefinite in that limitation "the golf club characteristics" in line 16 lacks proper antecedent basis within the claim. Prior to only the limitation of "a shaft characterized" was previously disclosed. It is uncertain if this club characteristics is referring to this shaft characteristic. Claim 2 recites the limitation "collecting information related to the golfer's ability and using it to provide swing instruction to the golfer". The Examiner was unable to find in the specification the disclosure of this. There is insufficient antecedent basis for this limitation in the specification.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 5, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Gobush (6,758,759) and Cervantes (5,779,556).

Anderson discloses determining swing information related to a golfer's swing technique in the form of sensors used during the swing [0042], receiving swing data over a wireless communication link in the form of digital camera collecting data [0026] [0030], combining information and data [0042], using received data and determined information to derive swing parameters for use in fitting a golfer with equipment [0002], optimizing launch angle in the form of this being a method of fitting a club to a golfer and launch angle is measured (Implied) [0042], displaying swing data in a graphical format [0032], generating a baseline performance matrix [0031], [0034], selecting an optimal shaft for a golfer [0050], selecting an optimal head for a golfer in the form of loft and lie [0051], and specifying a shaft flex based on collected swing data in the form of selecting the appropriate kick point based data from strain gauges [0050].

Anderson lacks a step of determining if a golfer's swing technique should be modified, provide swing instruction to a golfer if a golfer's swing technique should be modified, when swing technique should not be modified collect data on how a golfer launches a ball with the new swing technique, using captured images of a swing to provide instruction to the golfer, monitoring how a golfer launches a ball using the specified shaft flex to obtain launch data including a launch angle, velocity and speed, and modifying club characteristics based on launch data to optimize launch angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate.

Gobush (6,758,759) discloses swing instruction to correct swing flaws during a method of fitting of a club to a golfer (Col. 18, Lns. 55-57). Cervantes discloses a



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method of evaluating a specific golfer's swing performance and adjusting to correct swing flaws (Col. 1, Lns. 27-34). Clearly an artisan skilled in the art in fitting a club to a golfer using cameras and sensors is going to provide feedback to a golfer's swing to optimize the time of the fitting session by providing an input at suitable time in which prior to the evaluating the golfer's current clubs or receiving swing data are included. Also clearly is an instructor going to instruct within the observed ability of a golfer. In view of the patents of Gobush and Cervantes it would have been obvious to modify the method of fitting a golfer with equipment of Anderson with a step of determining if a golfer's swing technique should be modified, provide swing instruction to a golfer if a golfer's swing technique should be modified, collecting information related to a golfer's ability and using the information to provide swing instruction to a golfer, when swing technique should not be modified collect data on how a golfer launches a ball with the new swing technique and continue the club fitting procedure in order to have meaningful swing data when a golfer is swinging a club during a fitting process. Some beginner golfers are not going to have a swing worth testing without a minimal amount of swing instruction prior to the testing and evaluation steps to fit a beginner golfer with a set of clubs. It would have been obvious to capture images of a golfer's swing in the camera and use the images to provide instruction in order to save the images to teach with it more than once.

Gobush discloses a method of fitting clubs (Col. 2, Lns. 29-32) using cameras (Col. 1, Lns. 60-67), obtain launch data including a launch angle, velocity and speed (Claim 21), modifying club characteristics based on launch data to optimize launch

angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate (Fig. 8, S111), testing a new club (Fig. 8, S115) where one of the elements of golf performance is carry distance and directional accuracy, and being able to predict landing points based on ball velocity, flight direction and ball spin (Col. 1, Lns. 13-23). As artisan skilled in the art of matching a driver to a player would have selected a suitable performance to achieve for carry distance in which maximizing carry distance is included.

In view of Gobush it would have been obvious to modify the method of fitting equipment of Anderson to have a method of monitoring and optimizing launch based on a combination of spin, velocity, and launch angle to produce the longest and most accurate flight, monitoring how a golfer launches a ball using the specified shaft flex to obtain launch data including a launch angle, velocity and speed, and modifying club characteristics based on launch data to optimize launch angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate in order to provide a club and a set of clubs which minimize the number of strokes for a golfer when playing a hole.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Gobush (6,758,759) and Cervantes (5,779,556) as applied to claims 1, 5, and 28-29 above, and further in view of Sayers (4,059,270).

Anderson lacks collecting information related to a golfer's ability and using the information to provide swing instruction to a golfer.

Sayers discloses custom fitting clubs to golfer by fitting a player with a personal timing, coordination and physical strength to his equipment in order to optimize a player's game (Col. 1, 18-26). In view of the patent of Sayers it would have been obvious to modify the method of fitting a golfer with equipment of Anderson with the steps of determining collecting information related to a golfer's ability and using the information to provide swing instruction to a golfer in order to optimize a player's game.

13. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Gobush (6,758,759), Cervantes (5,779,556) and Sayers (4,059,270) as applied to claim 2 above, and further in view of Nauck (5,616,832) and Naruo (5,821,417).

Anderson lacks collecting data on a golfer's current golf equipment and current golf equipment data comprises shaft flex, lie angle and loft.

Nauck discloses custom fitting clubs to golfer through evaluating the result of combined equipment and golfer's characteristics in a dynamic evaluation (Col. 4, Lns. 51-55) in order to prevent equipment from having little positive effect for a golfer (Col. 4, Lns. 30-51). Naruo discloses a method of fitting a shaft flex to a golfer using cameras and strain gages (Abstract). In view of the patent of Nauck and Naruo it would have been obvious to modify the method of fitting a golfer with equipment of Anderson with the step of collecting data on a golfer's current golf equipment and current golf equipment data comprises shaft flex, lie angle and loft in order to ensure the current equipment will have a positive effect for a golfer and in order to have a base line to start

from in fitting a club to a golfer for shaft flex, lie angle and loft. In view of the patent of Naruo it would have been obvious to modify the method of fitting a shaft flex to a player in order to maximize the velocity of the head at impact by having the right shaft flex for a player.

14. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Gobush (6,758,759) and Cervantes (5,779,556) as applied to claims 1, 5, and 28-29 above, and further in view of Naruo (5,821,417).

Anderson discloses receiving swing data in the form of stain gauges [0042], and determining swing information related to a golfer's swing technique comprising a video taping of the swing [0026], [0032].

Anderson lacks determining a load time, a load pattern, and a ramp potential and deriving a shaft flex based on a load time, a load pattern, and a ramp potential.

Naruo discloses strain data displayed showing a load time, a load pattern, a ramp potential and peak deflection (Fig. 25), using strain gauges on a shaft in order to detect deflection during a swing (Col. 3, Lns. 7-11), swing information being related to a golfer's swing technique (swing time), a video taping a golfer's swing (Col. 2, Lns. 28-41), and based on the swing parameters select an optimum flex for a shaft based on the deflection (Col. 2, Lns. 28-41, Col. 3, Lns. 4-6). In view of the patent of Naruo it would have been obvious to modify the method of fitting a club to a player of Anderson to include determining data from a strain gage of load time, a load pattern, a ramp

potential and peak deflection in order to provide an optimum flex for a shaft to a golfer based on deflection of a shaft.

15. Claims 10-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Gobush (6,758,759) and Cervantes (5,779,556) as applied to claims 1, 5, and 28-29 above, and further in view of Examiner's Official Notice.

The Examiner takes Official Notice that it is well known in the art to fit a club to a player selecting a shaft length, shaft weight, shaft material, tip size, shaft torque, different grips, grip weights, head center of gravity, size, ball spin and then testing the new component by launching a ball to see if further equipment modification is required. In view of the Examiner's Official Notice it would be obvious to modify the method of fitting a club to a player of Anderson to have a set of selecting a shaft length, shaft weight, shaft material, tip size, shaft torque, different grips, grip weights, head center of gravity, ball spin and then testing the new component by launching a ball to see if further equipment modification is required in order to insure each of these parameters are optimized for a specific golfer.

16. Claim 67-69, 71-72 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Pelz (5,039,098) and Gobush (6,758,759).

Anderson discloses a launch monitor in the form of a camera and a display [0026] [0034].

Anderson lacks a method of fitting a golfer with a club comprising a plurality of heads each comprising a portion of a quick disconnect, providing a plurality of shafts, each shaft comprising a mating portion of a quick disconnect system, selecting a head from a plurality of heads, selecting a shaft from a plurality of shafts and repeating the process until optimal launch of a ball is achieved, monitoring how a golfer launches a ball using a new club, monitoring how the club launches a ball comprises monitoring spin, velocity and launch angle imparted to a ball, the new club head or shaft being selected based on the monitoring in order to optimize launch angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate.

Pelz discloses a method of fitting a golfer with a club comprising a plurality of heads each comprising a portion of a quick disconnect, providing a plurality of shafts, each shaft comprising a mating portion of a quick disconnect system, selecting a head from a plurality of heads, selecting a shaft from a plurality of shafts, and testing the club in order to minimize the number of clubs needed to test fit clubs (Col. 1, Lns. 10-35). Pelz does not disclose repeating the process after the first head and shaft are selected until optimal launch of a ball is achieved but clearly one skilled in the art in fitting clubs to a golfer would have selected a suitable number of test clubs in which forming at least two test clubs and until optimal launch of a ball is achieved are included.

In view of the patent of Pelz it would have been obvious to modify the method of fitting a club to a player of Anderson to have a method comprising a plurality of heads each comprising a portion of a quick disconnect, providing a plurality of shafts, each shaft comprising a mating portion of a quick disconnect system, selecting a head from a plurality of heads, selecting a shaft from a plurality of shafts, and testing the club in order to minimize the number of clubs needed to test fit clubs.

In view of the patent of Pelz it would have been obvious to modify the method of fitting a club to a player of Anderson to have a step of repeating the process of testing a configured club at least twice until optimal launch of a ball is achieved in order to ensure the golfer is getting the best equipment.

Gobush discloses a method of fitting clubs (Col. 2, Lns. 29-32) using cameras (Col. 1, Lns. 60-67), obtain launch data including a launch angle, velocity and speed (Claim 21), modifying club characteristics based on launch data to optimize launch angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate (Fig. 8, S111), testing a new club (Fig. 8, S115) where one of the elements of golf performance is carry distance and directional accuracy, and being able to predict landing points based on ball velocity, flight direction and ball spin (Col. 1, Lns. 13-23). As artisan skilled in the art of matching a driver to a player would have selected a suitable performance to achieve for carry distance in which maximizing carry distance is included.

In view of Gobush it would have been obvious to modify the method of fitting equipment of Anderson to have a method monitoring how a golfer launches a ball using

a new club, monitoring how the club launches a ball comprises monitoring spin, velocity and launch angle imparted to a ball, the new club head or shaft being selected based on the monitoring in order to optimize launch angle, velocity and spin rate relative to each other by determining an appropriate velocity based on the launch angle or spin rate in order to provide a club and a set of clubs which minimize the number of strokes for a golfer when playing a hole. In view of Gobush it would have been obvious to modify the method of fitting equipment of Anderson to have a method of monitoring and optimizing launch based on a combination of spin, velocity, and launch angle to produce the longest and most accurate flight in order to minimize the number of strokes for a golfer when playing a hole.

17. Claim 73 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Pelz (5,039,098) and Gobush (6,758,759) as applied to claims 67-69, 71-72 and 78 above, and further in view of Holls (3,556,533).

Anderson lacks each of the plurality of heads comprise configurable weights to change the center of gravity and when forming a new club comprises configuring the head configurable weights.

Holls discloses a head comprising configurable weights to change the center of gravity (Abstract). In view of Holls it would have been obvious to modify the plurality of heads of Anderson such that each of the plurality of heads comprise configurable weights to change the center of gravity and when forming a new club comprises



configuring the head configurable weights in order to make minor weight changes without having to replace the entire head.

18. Claim 74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Pelz (5,039,098) and Gobush (6,758,759) as applied to claims 67-69, 71-72 and 78 above, and further in view of Examiner's Official Notice.

See paragraph above for elements of structure previously rejected by Anderson in view of Examiner's Official Notice.

19. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Pelz (5,039,098) and Gobush (6,758,759) as applied to claims 67-69 and 78 above, and further in view of Naruo (5,821,417) and Examiner's Official Notice.

See paragraph above for elements of structure previously rejected by Anderson in view of Naruo and Examiner's Official Notice.

20. Claim 67-69, 71-72 and 76-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2003/0008731) in view of Ashcraft (5,513,844) and Gobush (6,758,759)

Anderson discloses a launch monitor in the form of a camera and a display [0026] [0034].

Anderson lacks a method of fitting a golfer with a club comprising a plurality of heads each comprising a portion of a quick disconnect, providing a plurality of shafts, each shaft comprising a mating portion of a quick disconnect system, selecting a head from a plurality of heads, selecting a shaft from a plurality of shafts and repeating the process until optimal launch of a ball is achieved, a hosel attached to shaft, a head having a bore to receive a hosel and a new club comprises a hosel inserted into the bore, and a hosel having threads to mate with a screw.

Ashcraft discloses a method of fitting a golfer with a club comprising a plurality of heads each comprising a portion of a quick disconnect, providing a plurality of shafts, each shaft comprising a mating portion of a quick disconnect system, selecting a head from a plurality of heads, selecting a shaft from a plurality of shafts, a hosel attached to shaft, a head having a bore to receive a hosel and a new club comprises a hosel inserted into the bore, a hosel having threads to mate with a screw (Fig. 4), testing the club at least twice and until the club is optimized (Abstract) in order to minimize costs (Col. 1, Lns. 19-21). Ashcraft does not disclose what is meant by optimize or testing but clearly an artisan skilled in the art would have selected a suitable test in which an optimal launch is included.

In view of the patent of Ashcraft it would have been obvious to modify the method of fitting a club to a player of Anderson to have a method comprising a plurality of heads each comprising a portion of a quick disconnect, providing a plurality of shafts, each shaft comprising a mating portion of a quick disconnect system, selecting a head from a plurality of heads, selecting a shaft from a plurality of shafts, a hosel attached to shaft, a

head having a bore to receive a hosel and a new club comprises a hosel inserted into the bore, a hosel having threads to mate with a screw and testing the club in order to minimize the costs of the fitting process.

In view of the patent of Ashcraft it would have been obvious to modify the method of fitting a club to a player of Anderson to have a step fitting a club based on optimal launch of a ball in order to ensure the golfer is getting the best equipment for locating a ball when swinging.

See elements of structure previously rejected by Anderson in view of Gobush.

### ***Response to Arguments***

21. The argument that the specification is detailed for systems and methods designed to determine specific equipment combinations that produce optimum results are disagreed with. The Examiner is unable to find the details that would enable one skilled in the art to perform the claimed method. Other than shaft flex and club lie the Examiner is unable to find how to identify certain combinations. The Examiner is uncertain how select shaft length, shaft weight, shaft material, shaft tip size, shaft torque, grip weight, head center of gravity, ball spin characteristics, and club characteristics are modified based launch data. The specification does not appear to have enough details. In addition, it is uncertain how to modify any club characteristic to optimize launch angle, velocity and spin rate. Again the specification does not appear to have enough detail. The argument that the specification is enabling because

specifying golf equipment involves no more than specifying the parameters that produce the optimum flight is disagreed with. The specification does specify a shaft flex based on collected swing data. However the claims do not discuss optimizing flight which could mean many things. Is it to optimize distance, trajectory, accuracy, roll, carry, velocity, etc...? The claims discuss optimizing launch angle, velocity and spin rate. What is the best launch angle, velocity and spin rate? The details of the disclosure are not sufficient enough for one skilled in the art to perform this method in a repeatable way. If the words "optimizing launch angle, velocity and spin rate" were replaced by the words "maximize distance" that would make more sense.

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawaguchi discloses selecting a shaft flex based on collected swing data.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Blau whose telephone number is (571) 272-4406. The examiner can normally be reached on Mon - Fri 10:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Slb/15 April 2008

/Stephen L. Blau/  
Primary Examiner, Art Unit 3711